



Maricopa County
Air Quality Department

Number: PP-2013-004

Title: **Ombudsman Review Policy**

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Approved by:

William D. Wiley, Director

I. Purpose

The purpose of this policy is to establish a protocol to process formal requests for departmental review to dispute inspection findings.

II. Statement of Policy

The Ombudsman will handle all formal requests for departmental review to dispute inspection findings by conducting an independent and objective review at one of two points in the enforcement process. Ombudsman review is available either initially upon receipt of an OTC or NOV or later upon receipt of a Final Offer to Settle letter. Notwithstanding this policy, the department may, where the seriousness of the violations discovered require immediate action, opt to forward an enforcement matter directly to the Office of the County Attorney. In such instances, Ombudsman review will not be available.

III. Initial Notices of Violation (NOV) and Opportunities to Correct (OTC)

- A. Each OTC or NOV will state that a formal written request for departmental review to dispute the inspection findings in the notice must be made in writing within 10 business days of receipt and will be handled by the department's Ombudsman. However, requests made after the 10 day period may be considered when circumstances warrant and acceptance for review is at the discretion of the Ombudsman. This 10 day period runs concurrent with the requirement that anyone receiving a Notice of Violation provide to the department a written response to the NOV within 10 days of receipt identifying how the noncompliant activity has been corrected.
- B. The written request should provide sufficient information to allow the Ombudsman to make an informed and objective assessment and recommendation regarding the issues raised in defense.
- C. The Ombudsman will contact the respondent, if practical, to acknowledge receipt of the request, describe the review process and include an opportunity to provide additional information or request a meeting.
- D. Any NOV or OTC for which Ombudsman review is requested shall not be forwarded to the department's enforcement office until reviewed by the Ombudsman.

- E. Disposition inspections will not be affected by this policy and will be conducted as deemed necessary by respective department staff.
- F. The Ombudsman will complete the review within 45 calendar days from the date the request is received by the Ombudsman, unless otherwise authorized by the Director.
- G. Ombudsman review of the disputed inspection findings may result in a recommendation to modify or rescind an NOV.
- H. Once the determination is made, the Ombudsman will issue a letter to the respondent conveying the final decision.

IV. Final Offer to Settle through an Order of Abatement by Consent (OAC)

The Office of the Ombudsman is available to provide an independent and objective review at the formal request of respondents who wish to dispute the inspection findings that form the basis of a OAC final offer to settle an enforcement case with the department following the procedures below:

- A. After the receipt of the final transmittal letter presenting an offer to enter into an OAC, a respondent will have 10 business days to submit a written request for departmental review to the department's Ombudsman.
- B. The written request should provide sufficient information to allow the Ombudsman to make an informed and objective review of the issues raised by the respondent.
- C. The Ombudsman will contact the respondent, if practical, to acknowledge receipt of the request, describe the review process and include an opportunity to provide additional information or request a meeting.
- D. An enforcement action under review will not be forwarded to County Counsel for a period not to exceed 45 calendar days from the date the request is received by the Office of the Ombudsman, unless otherwise extended by the Director.
- E. The Ombudsman's review may result in the affirmation of the NOV on which the enforcement action was based, a recommendation that the NOV be modified or rescinded, or a recommendation to modify the terms of the final offer to settle.
- F. Once the determination is made, the Ombudsman will issue a letter to the respondent conveying the final decision.

V. References

Violation Enforcement and Reporting Policy

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements. The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the department to give the rules in these policies that weight or deference. This document establishes the framework within which the department will exercise its administrative discretion in the future. The department reserves the discretion to deviate from this policy statement if circumstances warrant.